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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 RICHARD M. MARTINDALE, et
11 al.,

12 Plaintiffs,

13 v.

14 TARGET CORPORATION
15 MANAGEMENT, et al.,

Defendants.

CASE NO. C18-1158JLR

ORDER DISMISSING CASE

16 This matter comes before the court *sua sponte*. On August 7, 2018, Plaintiff
17 Richard Martindale filed a motion for leave to proceed *in forma pauperis* (“IFP”) against
18 Defendant Target Corporation Management (“Target”). (Martindale IFP Mot. (Dkt.
19 # 1).) Attached to Mr. Martindale’s motion is the complaint. (See Compl. (Dkt. # 1-1).)
20 According to the complaint, Mr. Martindale and Plaintiff Michael Arron Savage
21 (collectively, “Plaintiffs”) seek to re-open *Martindale v. Target Southcenter Mgmt.*, No.
22 C18-0805RSM. (See *id.* at 5 (“I ask of favor . . . to continue this case C-18-805 RSM to

1 settlements and or trial . . .”).) On July 13, 2018, the court dismissed case number
2 C18-0805RSM because Mr. Martindale’s claims were time-barred. (See C18-0805RSM
3 7/13/18 Order (Dkt. # 12) at 3.)

4 Under 28 U.S.C. § 1915(e), district courts have authority to review IFP complaints
5 and must dismiss them “at any time” if it is determined that a complaint is frivolous,
6 malicious, fails to state a claim on which relief may be granted, or seeks monetary relief
7 from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B); *see also*
8 *id.* § 1915A(b)(1); *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000) (clarifying that
9 § 1915(e) applies to all IFP proceedings, not just those filed by prisoners).

10 The court finds that the present case is frivolous and fails to state a claim on which
11 relief may be granted under 28 U.S.C. § 1915(e)(2)(B) because it is barred by the
12 doctrine of *res judicata*. “Res judicata is applicable whenever there is (1) an identity of
13 claims, (2) a final judgment on the merits, and (3) privity between parties.” *Stratosphere*
14 *Litig. L.L.C. v. Grand Casinos, Inc.*, 298 F.3d 1137, 1143 n.3 (9th Cir. 2002) (citing
15 *Owens v. Kaiser Found. Health Plan, Inc.*, 244 F.3d 708, 713 (9th Cir. 2001)). As
16 applied to the present matter: (1) the claims here are identical to the ones raised in case
17 number C18-0805RSM; (2) the court reached a final judgment on the merits in case
18 number C18-0805RSM, *see Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg’l Planning*
19 *Agency*, 322 F.3d 1064, 1081 (9th Cir. 2003) (explaining that a dismissal on statute of

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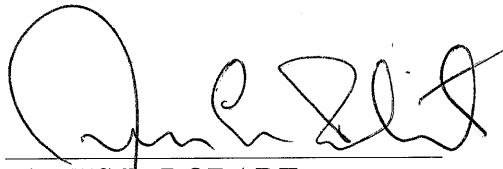
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1 limitations grounds is a judgment on the merits); and (3) there is privity between the
2 parties in this case and case number C18-0805RSM.¹

3 Because Plaintiffs' action is barred on *res judicata* grounds, the court DISMISSES
4 this case as frivolous and for failure to state a claim on which relief may be granted. 28
5 U.S.C. § 1915(e)(2)(B); *see also Evarts v. W. Metal Finishing Co.*, 253 F.2d 637, 639 n.1
6 (9th Cir. 1958) ("It is likewise true that a district court, acting sua sponte, may dismiss an
7 action where the records of that court show that a previous action covering the same
8 subject matter and parties had been dismissed."). Consequently, the court also
9 DISMISSES as moot the two pending motions for leave to proceed *in forma pauperis*
10 (Dkt. ## 1, 7).

11 Dated this th17 day of September, 2018.


JAMES L. ROBART
United States District Judge

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19 ¹ Mr. Savage did not appear in the previous action. (*See generally* C18-0805RSM Dkt.)
20 Mr. Savage has not pleaded any new claims in the present case. (*See* Compl.; Savage IFP Mot.
21 (Dkt. # 7).) It appears that Mr. Savage is included as a plaintiff because he is Mr. Martindale's
22 domestic partner. (*See* Compl. at 2.) For purposes of *res judicata*, "privity may exist if there is
substantial identity between parties, that is, when there is sufficient commonality of interest."
See Tahoe-Sierra, 322 F.3d at 1081. Because Mr. Savage is Mr. Martindale's alleged domestic
partner, who joined this case because of a potential marital community with Mr. Martindale, the
court finds that there is privity between the parties in the present matter and case number
C18-0805RSM.